

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
JAQUAN McINTOSH,

Movant,

-against-

19-cv-11966 (LAK)
[16-cr-0212 (LAK)]

UNITED STATES OF AMERICA,

Respondent.
----- X

ORDER

LEWIS A. KAPLAN, *District Judge*.

Movant was convicted on his plea of guilty of Count One of the Indictment, which charged him with conspiracy to commit racketeering in violation of 18 U.S.C. 1962(d). As part of his plea, and pursuant to his plea agreement, he admitted that he committed the murder of Donville Simpson. He was sentenced principally to a term of imprisonment of 280 months. The judgment was affirmed by the Court of Appeals. *United States v. McIntosh*, 758 Fed. Appx. 141 (2d Cir. 2018). No certiorari petition was filed.

On December 16, 2019, McIntosh moved, pursuant to 28 U.S.C. § 2255, to vacate, set aside or correct his sentence. He contends that his counsel was constitutionally ineffective, but for which he would not have pleaded guilty. The government responded on May 7, 2020.¹ In the absence of any reply from movant, the Court denied the motion on June 11, 2020.

On June 30, 2020, McIntosh moved “to recall the mandate.” The Court treated that application as a motion for reconsideration and informed McIntosh that it would reconsider its decision in light of any reply papers filed on or before July 17, 2020. No reply papers were received by that date or since.

The Court later in July received a motion from movant to extend his time to file reply papers. Although it appears that that motion may well be deemed to have been “filed” on July 16, given the benefit of the “mailbox rule,” it was not received until later.

McIntosh is in a difficult position. He is proceeding *pro se*, and he is incarcerated

1

The response is docketed only in the criminal case.

in an institution which is on lock down due to the pandemic. He is serving a lengthy sentence.

In all the circumstances, the latest motion [DI 1507 in 16-cr-0212 and DI 12 in 19-cv-11966] is granted to the extent that the Court will reconsider its denial of the Section 2255 motion in light of any reply papers movant may file such that they are received by the Court on or before October 7, 2020.

The Clerk shall mail a copy of this order to movant.

SO ORDERED.

Dated: August 7, 2020

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan", is written over a horizontal line.

Lewis A. Kaplan
United States District Judge